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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,979	06/08/2001	David A. Glowny	8740-062-999	2493

22930 7590 08/28/2003

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER
WEAVER, SCOTT LOUIS

ART UNIT	PAPER NUMBER
2645	

DATE MAILED: 08/28/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
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Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/876,979	GLOWNY ET AL.	
	Examiner	Art Unit	
	Scott L. Weaver	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 June 2001 and 24 July 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,8-10,13-22,25-27 and 30-86* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *35-86* is/are allowed.

6)☒ Claim(s) *1-5,8-10,13-22,25-27 and 30-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

1. Applicant's arguments filed 7/24/2001 have been fully considered but they are not persuasive, applicant has also not made of record all of the references previously known thereto by listing the parent application references cited. Remarks follow each of the rejections below in response to the remarks of paper #3

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 and 18-20 and 27 are rejected under the judicially created doctrine of double patenting over claims 1-3, and 5-7 of U. S. Patent No. 6,249,570 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: each of the claim listed above is merely a broader presentation of limitations already presented by the limitations of the patented claims noted.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See In re Schneller, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 10, 18, 20-22, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Peavey et al.(#5,533,103).

The claims read on Peavey as follows: Peavey teaches (Abstract; figures 1, 3, 4, 5; col.2,ln.30-45; col.3,ln.10-47; col.4,ln.17-65; col.5,ln.16-38; col.8,ln.17-col.9,ln.47; col.11,ln.39-52) a system, method, program and software including for recording telephone call information in first and second memory which are the same device, and a processor for reconstruction of the telephone by use thereof, the data representation includes location of each segment as required for playback thereof, the processor is comprised of plural components, the data of telephony events is received from the a plurality of sources connected to a telephone switching environment (the users).

With respect to the remarks directed towards Peavey, the suggestion that no telephony event is recorded because the telephone number used is not a telephony event is not persuasive, any number used in the calling processing is considered an event related to telephony as is defined by the claim. The suggestion that no representation of a lifetime of the call is made is not persuasive, Peavey teaches a recording of audio and data associated therewith, this is considered a 'representation of a lifetime' of the call in as far as the claim language defines such phrase.

With respect to the suggestion that Peavey does not store calls from plurality of sources, this is not persuasive since multiple calls are processed, and no storing of a signal indicating the call has ended is required by the open ended claim language presented by the use of 'comprising'.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 13, 17, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peavey as applied above in view of Jorgensen et al. (#5,867,559).

Peavey teaches that which is as pointed out above, Peavey does not teach displaying of graphical representations of the telephone call of at least one segment, nor data representative of a table of the call record.

Jorgensen teaches (col.3,ln.34-65; col.4,ln.27-col.5,ln.8) details of the verification process including the playback process using file locations, displaying of graphical representations of the telephone call of at least one segment, displaying data representative of a table of the call record as by display of the record itself on computer screen for verification.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to enable the system of Peavey to retrieve data for the verification process including the playback process as taught by Jorgensen, displaying of graphical representations of the telephone call of at least one segment as taught by Jorgensen, and display data representative of a table of the call record as taught by Jorgensen for the purpose of enabling the verification system described by Peavey to retrieve and verify the updated records recorded thereby.

With respect to the remarks directed toward Jorgenson, the suggestions are not persuasive because the claims do not limit what can and can not be considered as a graphical 'representation' of a telephone call.

7. Claims 2, 8-9, 19, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peavey as applied above in view of Brady (#5,982,857).

Peavey teaches that which is as pointed out above, Peavey does not teach the data representation includes all of a list of participants and a list of telephony events and a list for the time of each telephony event and the start and end time of the call, nor is the file specifically a .WAV file containing the audio with the required offset data to determine start and end points.

Brady teaches (col.4,ln.52-col.5,ln.34) teaches to include all of a list of participants and a list of telephony events and a list for the time of each telephony event and the start and end time of the call, and

to use specifically a .WAV file containing the audio with the required offset data to determine start and end points.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to enable the system of Peavey to includes all of a list of participants and a list of telephony events and a list for the time of each telephony event and the start and end time of the call as taught by Brady for the purpose of enabling the complete verification of certain parts of the telephone record, as well as to use a .WAV file containing the audio with the required offset data to determine start and end points as taught by Brady for the purpose of using a well known file format which would be widely compatible between different systems.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Brady provides the motivation for combining his teaching into the teaching of Peavey, that being to solve the problem of retrieving of particular desired records.

8. Claims 14-16, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peavey as modified above in view of Brady and further in view of Jorgensen.

Peavey as modified in view of Brady teaches that which is as pointed out above, the references do not teach displaying of graphical representations of the telephone call of at least one segment, nor data representative of a table of the call record.

Jorgensen teaches (col.3,ln.34-65; col.4,ln.27-col.5,ln.8) details of the verification process including the playback process using file locations, displaying of graphical representations of the

telephone call of at least one segment, displaying data representative of a table of the call record as by display of the record itself on computer screen for verification.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to enable the system of Peavey modified in view of Brady to retrieve data for the verification process including the playback process as taught by Jorgensen, displaying of graphical representations of the telephone call of at least one segment as taught by Jorgensen, and display data representative of a table of the call record as taught by Jorgensen for the purpose of enabling the verification system described by Peavey modified in view of Brady to retrieve and verify the updated records recorded thereby.

The suggestion to combine the references is as noted above with respect to the suggestion that there is no motivation to combine Peavey in view of Brady because of what Jorgenson is suggested not to teach.

Conclusion

9. The prior art previously made of record in the parent application, but not made of record in this application by the applicant, and not relied upon is considered pertinent to applicant's disclosure.

10. Claims 35-86 are directed toward allowable subject matter over the prior art of record at this time.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 308-6296 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Weaver whose telephone number is (703) 308-6974. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang , can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750 or 2600 Customer Service at 703-306-0377.

SCOTT L. WEAVER
PRIMARY EXAMINER
Art Unit 2645